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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

THE HON. MARK C. SCARSI, JUDGE PRESIDING

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	NO. 22-CR-00321-MCS-1
	)	
KEITH SHAZAD MALIK,	)	
	)	
Defendant.	)	
_____	)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS  
(SENTENCING)

Los Angeles, California

Monday, August 21, 2023

Katherine Stride, CSR 11773  
Official U.S. District Court Reporter  
350 West 1st Street  
Los Angeles, California 90012  
Email: katscsr@gmail.com

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1 APPEARANCES:

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4 FOR THE GOVERNMENT:

5 UNITED STATES ATTORNEY'S OFFICE  
6 BY: KEVIN B. REIDY, ESQ.  
7 ASSISTANT UNITED STATES ATTORNEY  
8 1400 United States Courthouse  
9 312 N. Spring Street, 12th Floor  
10 Los Angeles, California 90012  
11 (213) 894-2400  
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25 FOR THE DEFENDANT:

FEDERAL PUBLIC DEFENDER  
By: ALEJANDRO J. BARRIENTOS, ESQ.  
Deputy Federal Public Defender  
321 East Second Street  
Los Angeles, California 90012  
(213) 894-2854

08:47:52

1 LOS ANGELES, CALIFORNIA; MONDAY, AUGUST 21, 2023

2 1:30 P.M.

3  
4 THE CLERK: Calling Item No. 2, CR 22-321,  
5 *United States vs. Keith Shazad Malik.*

6 Counsel, state your appearances please.

7 MR. REIDY: Good afternoon, Your Honor. Kevin  
8 Reidy on behalf of the United States.

9 THE COURT: Good afternoon.

10 MR. BARRIENTOS: Good afternoon, Your Honor.  
11 Alejandro Barrientos for Mr. Keith Malik, who is present.

12 THE COURT: Good afternoon.

13 Good afternoon, Mr. Malik. So we're now set for  
14 sentencing. I've gone through all the papers, all the  
15 papers that were filed. I looked at the Presentence Report  
16 and the addendum that was filed. I looked at the  
17 Defendant's objections, and I looked at the Government's  
18 position, and I received a letter from the Defendant that I  
19 considered and all the other papers on file.20 Let me ask counsel: Have you had an opportunity  
21 to review all the papers?22 MR. BARRIENTOS: Your Honor, I'm sorry. Did you  
23 say a letter from the Defendant?24 THE COURT: Yes. Yeah, the Defendant sent a  
25 letter to the Court. His counsel had an opportunity to --

15:01:18 1 were -- we're you aware of that?

2 MR. BARRIENTOS: I apologize, Your Honor. I was  
3 not, and I would like an opportunity to review it.

4 THE COURT: Okay. Let me ask counsel: Do you  
5 have any concerns about the ability of your client to  
6 understand the proceedings here against him?

7 MR. BARRIENTOS: Your Honor, I've looked into  
8 this, I've consulted with folks, and I do not doubt his  
9 ability to understand.

10 THE COURT: Okay.

11

12 (Pause in proceedings)

13

14 THE COURT: Let me ask the Government while  
15 counsel's reviewing that letter: Are there any victims that  
16 wish to be heard at the proceeding today?

17 MR. REIDY: No, Your Honor.

18 THE COURT: And have the victims been notified of  
19 the proceedings?

20 MR. REIDY: Yes, Your Honor.

21 THE COURT: And does the Government, other than  
22 what's already been submitted, have any objections to any of  
23 the -- any objections to the Presentence Report or anything  
24 that was provided by Probation or Pretrial Services?

25 MR. REIDY: No, Your Honor.

15:02:25

1 THE COURT: Thank you.

2 MR. BARRIENTOS: Thank you, Your Honor.

3 THE COURT: And, Counsel, you've looked at the  
4 proposed conditions of supervised release, and as I  
5 understand, you have no objections to those proposed  
6 conditions; correct?

7 MR. BARRIENTOS: That's correct.

8 THE COURT: Okay. Let me ask Mr. Malik: Have you  
9 had an opportunity to review all the papers that have been  
10 filed in the case?

11 THE DEFENDANT: Yes.

12 THE COURT: Do you need any more time to discuss  
13 them with your attorney?

14 THE DEFENDANT: No.

15 THE COURT: Do you have any more questions about  
16 them?

17 THE DEFENDANT: No.

18 THE COURT: Do you understand the nature of the  
19 proceedings against you, and do you understand what we're  
20 doing here today?

21 THE DEFENDANT: Yes.

22 THE COURT: Do you have any reason to believe  
23 you're not competent to proceed?

24 THE DEFENDANT: I am competent to proceed.

25 THE COURT: Okay. Let me ask counsel: Other than

15:04:27

1 what's been filed, do you have anything else you want to  
2 present on sentencing?

3 MR. BARRIENTOS: Your Honor, just briefly on the  
4 recommendation of the Probation Office.

5 THE COURT: Uh-huh.

6 MR. BARRIENTOS: So one thing I wanted to point  
7 out to the Court, which I don't think I fully brought out in  
8 the supplemental sentencing position is, in the Bennington  
9 case, which I think involved really substantial similar  
10 conduct, you can see from the Government's sentencing  
11 position that's Exhibit B to the supplemental position and  
12 on page -- page -- excuse me -- page 2 of that, the  
13 Government describes Bennington's actions over the years  
14 and, in particular, threats and unwanted messages to a  
15 victim who was 16 years old, and those continued from 2013  
16 to 2019. And so I think this case really shows that  
17 there -- if the Court is going to go, you know, much above  
18 the guidelines, there is going to be a disparate treatment  
19 of Mr. Malik, an individual who conducted, essentially, the  
20 same acts who had almost identical circumstances in terms of  
21 their mental health issues, their homelessness, and their  
22 past events, and I really just -- to me, I don't understand  
23 why Probation is treating these people in different ways. I  
24 know they've said in their addendum that we can't know about  
25 the, I think it was, circumstances of each individual, but I

15:06:04

1 think judging, based on the papers that were filed in the  
2 Bennington case and in this case, we can see that they are  
3 substantially similar, and I point out, too, if the worry is  
4 that there's no assurances about what Mr. Malik is going to  
5 be doing going forward, I think there's agreement here  
6 basically on all sides that he's now in a much better place  
7 than he was previously. He has a home in Kansas. He  
8 inherited some money from after his mother's passing. So he  
9 has the ability to go back home and take care of himself.  
10 He's reconnected with his brothers, who were not able to be  
11 here today because they live in different states, in  
12 Illinois and in Washington.

13 And so, Your Honor, we would object to any -- any  
14 sentence that would go above the guidelines, which is  
15 substantively unreasonable, and we think -- and I'm not  
16 going to beat this into the ground, but I do think, based on  
17 the recommendation letter that Probation wrote, that it  
18 really is based on a desire to have Mr. Malik evaluated and  
19 treated in B.O.P. custody as opposed to while supervised  
20 release, and I don't think that the B.O.P. necessarily has  
21 the best track record of treating individuals with these  
22 kinds of -- of conditions, and I think Mr. Malik has  
23 indicated to the Court already, in coming in and -- and  
24 affirming his agreement to his plea deal and by not  
25 objecting to the conditions of supervised release, that he



15:07:38

1 is committed to moving forward in a way that is productive,  
2 in a way that will take advantage of the resources  
3 identified by the social workers in my office that are  
4 available to him in Kansas where he can go home and  
5 hopefully get things back on the right track with the help  
6 of his brothers.

7 THE COURT: Thank you, Counsel.

8 Mr. Malik, do you want to address the Court?

9 THE DEFENDANT: Sure. I would just like to excuse  
10 me -- so I'm very sorry that I expressed such awful  
11 sentiments via e-mail, and I do not feel good about  
12 expressing those sentiments and wish that I hadn't, and I  
13 think there's a lot for me in Kansas. I would very much  
14 like to go home and successfully complete probation and the  
15 mental health program. I don't foresee there being an  
16 issue. I have my brothers available to me now. I haven't  
17 been in touch with them for a while and I have stable  
18 housing. So I think that rehabilitation in Kansas would  
19 definitely suit me and the state of California.

20 THE COURT: Thank you, Mr. Malik.

21 So I've gone through the papers and spent some  
22 time considering the arguments raised. I -- I looked at the  
23 case counsel cited, and, yeah, there was, essentially, an  
24 objection to potentially unwarranted sentence disparity, and  
25 that's certainly something the Court looks at in trying to,

15:09:35

1 you know, come up with a -- with a -- an appropriate  
2 sentence. We try to eliminate unwarranted sentence  
3 disparities, but as you know, it's not on a case-by-case  
4 basis necessarily. So you really can't take one case, and  
5 it's not necessarily binding precedent on the Court with  
6 respect to that sentence, but I try to consider that in  
7 coming up with an -- with an appropriate sentence.

8 I looked at the revised Presentence Report, and it  
9 does not appear to me that the -- that Probation and  
10 Pretrial Services was attempting to create a longer sentence  
11 to allow Mr. Malik to have treatment by the Bureau of  
12 Prisons, and to the extent that suggestion is there, the  
13 Court's not -- not basing its decision on that decision at  
14 all.

15 Here, I've gone through and looked at the  
16 guidelines. The guidelines are obviously the starting  
17 point, and looking at the November 1st, 2021, edition of the  
18 guidelines: The total Offense Level of 12, Criminal History  
19 Category of 3, the guideline range is 14 to 21 months, and  
20 the range of supervised release is one to three years.  
21 There's a guideline fine range of 5,500 to 55,000 and a  
22 Special Assessment to the victims crime fund for \$100.

23 I thought I was going to make an individualized  
24 determination here based on the facts of this case and the  
25 nature and circumstances of the Defendant, of the conduct

15:11:20

1 I'm looking at the need for the sentence to reflect the  
2 seriousness of the offense, to promote respect for the law,  
3 to provide just punishment, to afford adequate deterrence  
4 for criminal conduct, to protect the public from further  
5 crimes of the Defendant, and also one of the factors in  
6 3553(a) is to provide the Defendant with needed  
7 educational/vocational training, medical care, and those  
8 sorts of things; although, as I say, the Court's decision is  
9 not -- the Court's not, in any way, taking into account --  
10 trying to fashion a sentence that would allow the Defendant  
11 to have enough time in custody to -- to seek treatment.  
12 That's not the basis of the Court's decision -- looking at  
13 the kinds of sentences available and the sentencing range  
14 established for the offense set forth in the sentencing  
15 guidelines and the statute and the policy statements of the  
16 United States Sentencing Commission as provided.

17           So the Defendant offers several factors for a more  
18 lenient sentence: The Defendant suffered tragic losses,  
19 difficulties during childhood, and is consistently struggle  
20 with mental health issues. The Defendant's history and  
21 characteristics suggest that further confinement may  
22 undermine the goals of sentencing insofar as support for his  
23 mental health and social stability may be more effectively  
24 obtained outside of custody.

25           That being said, there are several factors that

15:12:44

1 weigh for a stricter sentence. Here, the nature and  
2 circumstances of the offense are serious. The defendants  
3 sent threatening communications to the victim and her family  
4 causing them mental anguish and stress. The conduct  
5 underlying this defense -- this offense came several years  
6 after there was a restraining order issued. So the issue  
7 that the Court has with respect to protecting the public and  
8 protecting, specifically, the victim here, is that this  
9 conduct happened when there was a restraining order in  
10 place. So there was already the Court process in -- in  
11 place here that the Defendant ignored.

12           The -- the letter the victim described, describing  
13 the Defendant's conduct has had in her life, it was  
14 harrowing. The Defendant's history and characteristics  
15 can't fully explain or excuse his decision to engage in a  
16 campaign of threats and harassment against the victim that  
17 gave rise to the offense. A substantial factor in  
18 aggravation is the continued disrespect for the law. In the  
19 e-mails to the victim, the Defendant acknowledged that he  
20 was aware of the restraining order. So this, you know,  
21 wasn't a confusion thing. This wasn't -- this wasn't a  
22 mistake. Despite being aware of the restraining order, he  
23 continued to harass the victim via e-mail and over years.  
24 In fact, even after immediately of receiving the restraining  
25 order, the Defendant began his -- his campaign of harassing

15:14:22

1 the victim again.

2           Given the extent and longevity of the behavior  
3 towards the victim and the lack of deterrence that the Court  
4 orders have exhibited so far, a truly meaningful custodial  
5 sentence is needed to impose upon the Defendant, the need to  
6 respect the law, to protect the community from further  
7 crimes, and to deter the Defendant from further criminal  
8 conduct.

9           So this is an instance where the demonstrated  
10 ignoring of the prior restraining order causes the Court to  
11 believe that -- that there's not -- from a safety  
12 perspective, the Court doesn't have the confidence that the  
13 Defendant will -- will respect an order here if not in  
14 custody. So a meaningful custodial sentence is needed to  
15 impress upon the Defendant the need to respect the law, to  
16 protect the community from further crimes committed by the  
17 Defendant, and to deter the Defendant from further criminal  
18 conduct. The nature of circumstances of the offense, the  
19 Defendant's lack of respect for the law, and the need to  
20 adequately deter the Defendant from future criminal conduct,  
21 all support an upward variance. The seriousness of the  
22 offense is inadequately captured by the sentencing  
23 guidelines. The frequency, type of threats, and extension  
24 of threats to co-workers and family have escalated over  
25 time. The violent and sexual nature of the threats, the

15:15:46 1 persistent and consistent harassment has spanned more than a  
2 decade, and the Defendant's determination to carry out the  
3 threatening conduct and defiance outweighs his mitigating  
4 history and characteristics.

5 I'll now state the sentence, but counsel will have  
6 a final chance to make legal objections before the sentence  
7 is imposed.

8 Do counsel know of any reasons, other than those  
9 stated, why a sentence should not now be imposed?

10 MR. REIDY: No, Your Honor.

11 MR. BARRIENTOS: No, Your Honor.

12 THE COURT: Okay. I find the following sentence  
13 is reasonable and is sufficient but is no greater than  
14 necessary to comply with the purposes stated in 18, U.S.C.,  
15 Section 3553(a): It's ordered that the Defendant shall pay  
16 to the United States a Special Assessment of \$100, which is  
17 due immediately. Any unpaid balance shall be due during the  
18 period of imprisonment at a rate of not less than \$25 per  
19 quarter and pursuant to the Bureau of Prisons' Inmate  
20 Financial Responsibility Program.

21 Pursuant to Guideline Section 5E1.2(a), all fines  
22 are waived as the Court finds that the Defendant has  
23 established that he is unable to pay and is not likely to  
24 become able to pay a fine.

25 Pursuant to the Sentencing Reform Act of 1984 it

15:16:52 1 is the judgment of the Court that the Defendant, Keith  
2 Shazad Malik, is hereby committed on Count 2 of the  
3 Indictment to the custody of the Bureau of Prisons for a  
4 term of 60 months.

5 The Court recommends that the Bureau of Prisons  
6 conduct a mental health evaluation of the Defendant and  
7 provide all necessary treatment.

8 Upon release from imprisonment, the Defendant  
9 shall be placed on supervised release for a term of three  
10 years under the terms and conditions previously provided to  
11 the Defendant, which the Defendant has indicated there is no  
12 objection to.

13 The Court authorizes the Probation and Pretrial  
14 Services Office to disclose the Presentence Report to the  
15 substance abuse treatment provider to facilitate the  
16 Defendant's treatment for narcotic addiction or drug  
17 dependency. Further redisclosure of the Presentence Report  
18 by the treatment provider is prohibited without the consent  
19 of the sentencing judge.

20 The Court authorizes the Probation Officer to  
21 disclose the Presentence Report and any previous mental  
22 health evaluations or reports to the treatment provider.  
23 The treatment provider may provide information excluding the  
24 Presentence Report to state or local social service agencies  
25 such as the state of California, Department of Social

15:17:59 1 Service for the purpose of the client's rehabilitation.

2 So that's the sentence.

3 You've got the ability to repeal the sentence, and  
4 with few exceptions, a Notice of Appeal must be filed within  
5 14 days; do you understand that?

6 THE DEFENDANT: Yes. Did you say 60 or 16?

7 THE COURT: Six, zero. So the term of custody is  
8 five years, which is -- which is the maximum for this, and I  
9 do hope that, at some point during that time, you have the  
10 help you need, and so you're able to -- when you're through  
11 with your custodial sentence --

12 THE DEFENDANT: You do understand all of the --

13

14 (Mr. Barrientos and the Defendant confer)

15

16 THE DEFENDANT: I understand. I would just like to  
17 point out that my brother was killed. He was assassinated.  
18 In 1989, and the U.S. courts ruled against my family, which  
19 is -- that's kind of a gross violation of any rights, which  
20 I've ever have.

21

22 (Mr. Barrientos and the Defendant confer)

23

24 THE DEFENDANT: I just wanted to be honest to make  
25 sure that was known, and then I was slipped arsenic when I



15:19:32 1 was 19. I was unable to sue the state of Utah.

2 (Mr. Barrientos and the Defendant confer)

3  
4 THE DEFENDANT: And, yeah, I mean, I understand.  
5 I just also want to point out that I dodged an I.U.D., a  
6 bomb, when I was 25 on I-76 and called 911 immediately and  
7 was hung up on both by L.A.P.D. and the FBI. So there's --  
8 there's been a long history of violence against my person,  
9 which I believe this Court just condoned, and I just --

10  
11 (Mr. Barrientos and the Defendant confer)

12 THE DEFENDANT: Yeah, I'm just asking for  
13 leniency. I mean --

14 THE COURT: Okay. Well, I -- I -- to be clear,  
15 Mr. Malik, this sentence was not based on any of the -- on  
16 any of the materials you just mentioned, but I encourage you  
17 to talk to your counsel, and to the extent there's -- you  
18 feel there's an appeal that's appropriate, work with counsel  
19 to make that happen, and if the Court could assist in that  
20 process in any way, please let the Court know.

21 And, Counsel, we had a discussion at the beginning  
22 about the Defendant's ability to understand the proceedings  
23 here against him. If -- if there's another view on that,  
24 please, you know, bring it up with the Court at an  
25 appropriate time.

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MR. BARRIENTOS: Thank you, Your Honor.

THE COURT: Okay. Thank you.

MR. REIDY: Your Honor, I apologize.

THE COURT: Yeah. Sorry.

MR. REIDY: We just move to remove the remaining  
counts.

THE COURT: The remaining counts are dismissed.

MR. REIDY: Thank you.

THE COURT: Thank you, Counsel.

(Proceedings concluded)

--oOo--

15:21:40

CERTIFICATE

I hereby certify that pursuant to Section 753,  
Title 28, United States Code, the foregoing is a true and  
correct transcript of the stenographically reported  
proceedings held in the above-entitled matter and that the  
transcript page format is in conformance with the  
regulations of the Judicial Conference of the United States.

Date: October 23, 2023

/s/Katherine M. Stride

KATHERINE STRIDE, COURT REPORTER  
CSR NO. 11773